

(ಶ್ರೀ ಎ. ಪಿ. ಅಪ್ಪಣ್ಣ)

ಈ ಸಂದರ್ಭದಲ್ಲಿ ಒಂದು ವಿಷಯವನ್ನು ಹೇಳುವುದಕ್ಕೆ ಇಷ್ಟಪಡುತ್ತೇನೆ. ಈಗ ನಮ್ಮ ದೇಶದಲ್ಲಿ ಒಂದೊಂದು ಭಾಗದಲ್ಲಿ ಒಂದೊಂದು ರೀತಿಯ ಭೂಕಂದಾಯವಿದೆ. ಒಂದು ಭಾಗದಲ್ಲಿ ಹೆಚ್ಚು ಕಂದಾಯ, ಇನ್ನೊಂದು ಭಾಗದಲ್ಲಿ ಕಡಿಮೆ ಕಂದಾಯ ಇದೆ. ಹೀಗಿರುವಾಗ ಅದನ್ನು ಸರಿಪಡಿಸಿ ರೀಸೆಟ್ ಮೆಂಟ್ ಮಾಡಿ ಒಂದೇ ರೀತಿಯ ಕಂದಾಯ ಹಾಕಬೇಕೆಂಬ ಧೋರಣೆ ಹೊತ್ತು ಅದರ ಅಡಿಪಾಯದಲ್ಲಿ ಅಗ್ನಿಕಲ್ಪರಂ ಇಂಟರ್‌ಸ್ಟಾಕ್ಸ್ ವಿಚಾರ ಗಮನಿಸುವುದು ಅಗತ್ಯ. ಹಾಗೆ ಮಾಡಿದರೆ ಒಂದು ಭಾಗದವರಿಗೂ ಮತ್ತು ಇನ್ನೊಂದು ಭಾಗದವರಿಗೂ ಇರುವ ವ್ಯತ್ಯಾಸವನ್ನು ಹೋಗಲಾಡಿಸಿದಂತಾಗುತ್ತದೆ.

ಅಹಾರ ಪದಾರ್ಥಗಳಿಗೆ ವಿನಾಯಿತಿ ಯಿರಬೇಕು. ಇನ್ನು ಮುಂದಾದರೂ ಅಗ್ನಿಕಲ್ಪರಂ ಇಂಟರ್‌ಸ್ಟಾಕ್ಸ್ ಒಂದು ರಾಷ್ಟ್ರವನ್ನೇ ಬೇಸಿಸ್ ಮೇಲೆ ಹಾಕಬೇಕು. ಪ್ರತಿಯೊಂದು ಬೆಳೆಯ ಉತ್ಪತ್ತಿ ಎಷ್ಟು ಬರುತ್ತದೆಂದು ಗಮನಿಸಿ, ಇಡೀ ರಾಜ್ಯದಲ್ಲಿ ಯಾವ ರೀತಿ ಭೂ ಕಂದಾಯ ದಾಖಲಾದೆಯೆಂಬುದನ್ನು ಗಮನಿಸಿ ಒಂದು ರೀತಿಯಲ್ಲಿ ಅಗ್ನಿಕಲ್ಪರಂ ಇಂಟರ್‌ಸ್ಟಾಕ್ಸ್ ಹಾಕಬೇಕು, ಅಹಾರ ಪದಾರ್ಥಗಳ ವೇಲೆ ಮೊದಲದ್ದೇ ಸ್ಟ್ಯಾಂಡರ್ಡ್‌ರನ್ನು ಈಗ ಏರಿಸಿರುವುದನ್ನು ಬಿಡಬೇಕು, ವ್ಯಕ್ತಿಗಳಿಗೂ ಕಂಪೆನಿಗಳಿಗೂ ನೂಪರ್ ಟ್ಯಾಕ್ಸ್ ಹಾಕುವುದರಲ್ಲಿ ಯಾವ ವಿಧವಾದ ವ್ಯತ್ಯಾಸವೂ ಇರಬಾರದು. ಈ ರೀತಿ ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕೆಂದು ಹೇಳಿ ನನ್ನ ಮಾತನ್ನು ಮುಗಿಸುತ್ತೇನೆ.

5-00 P.M.

ADMISSIBILITY OF ADJOURNMENT MOTION.

Re: Deaths of 62 persons at K. G. F. due to consumption of poison in illicit liquor.

Mr. SPEAKER.—Shall we continue this or take up the adjournment motion?

Sri S. M. DEO.—Let us take up the adjournment motion.

Sri R. M. PATIL (Minister for Home).—May I request the Chair that it may kindly be taken up tomorrow?

Mr. SPEAKER.—It may be taken up tomorrow. But I have been looking to it for a couple of hours. I find it very interesting and there are views which give reasons for one conclusion or the other. I would like to have a little benefit or guidance of the members because in such questions

I do not want to make up my mind immediately without knowing what they have to say in support of it. I am inviting the attention of the Members to some of the relevant rules because rules are those which have been framed by the House and which are binding on the House. There are restrictions on the right to make motions. It refers to various conditions which are absolutely necessary for the consideration of a motion. I refer to clause (vii) of Rule 52:

“The motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India.”

It will be seen from that the words ‘*sub judice*’ are not there. Pending enquiry also in certain circumstances could be equated to *sub judice* but whether it fits in under all circumstances four-square or not is the point. I find there are some cases in which the courts have held that the filing of F. I. R. amounts to *sub judice*. That is the earlier view. Later on, I find that the courts have held that it is an exploded theory and there must be what might be called imminence, because when a charge-sheet is filed, a definite stage is reached as a result of which enquiry begins. That does not mean that a charge sheet will be filed or the court is seized of the matter. Mere filing of F. I. R. does not necessarily entail as an inevitable consequence that a charge sheet will be filed. The F. I. R. report is filed so that the investigating officer may not be blamed of having done with it in a different manner at a later stage. By way of protection it is done. The Criminal Procedure Code provides that the first information report of any offence should be given and it is being done. That is practically an initial stage of investigation. Whether at that stage it becomes a matter pending before the court and whether the court has applied its mind or whether the court has been called upon to apply its mind may not have been completely studied. That is why I began by pointing out that the words ‘*sub judice*’ are not there. Then I

mentioned to you that the old theory of filing a F. I. R. might not amount to *sub judice*. But when F. I. R. is filed from the relevant facts of the incident, it looks that it is imminent and almost a certainty and there is imminence of the charge-sheet being filed. It has been held that any comment in the papers which might prejudice one way or the other in favour of the accused or against the accused will amount to contempt of that court. But the privileges of the House are slightly different. The House is entitled to discuss. The House can discuss in camera. The House can discuss by itself and every discussion is not bound to be reported and if it is reported, the persons who report, the publishers who publish the papers which publish take it on a different line and it is a matter for them to consider. But at the same time dealing with the limited view, namely, whether the House can discuss it or not, we can comment here. Unless it is published, it is not going to influence anybody. It might influence the House, but we are not going to sit in court and decide the case. It might influence the members who are present and not beyond that. There is no chance of publishing it ourselves until the reports are compiled and edited and so many steps are taken. Even if it is to be published in our official report, it might go on a different footing. These are relevant considerations that arise. So, it is a difficult matter. I have been reading a number of rulings. I must confess that within the short time at my disposal I have not been able to read through all the rulings. There are rulings of the Speaker either of Lok Sabha or of this House or of the legislature analogous to ours and they have gone on a particular line. That is a matter of privilege. There are judicial decisions where the considerations and the principles of jurisprudence that govern them have gone on a slightly different line. I find it is a highly vexed question. I naturally like the Members to help me if they so desire by enlightening me on that. Would the Leader of the Opposition say anything as to whether it is *sub judice* or whether the rule

which I pointed out contravenes the discussion? The procedure to be followed is also seen in Rule 54. It says;

"54 (1) The Speaker, if he gives consent under rule 50 and holds that the matter proposed to be discussed is in order, shall after the questions and before the list of business is entered upon, call the member concerned who shall rise in his place and ask for leave to move the adjournment of the Assembly;

(2) If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than twenty members rise accordingly, the Speaker shall intimate that leave is granted..."

The details of the procedure will have to be followed before I make up my mind to give consent or not. I must not do anything which will be a contempt of any court. I should like reconciliation between the privilege of the House and the rights of the judiciary.

†Sri ANNA RAO GANAMUKHI.—The chair has been kind enough to enlighten us on this matter. Now, from what the chair has said, I think it is the Government which is in a position to give its impression or its view about the proximity of the charge-sheet being filed or the proximity of the first information report and the charge sheet. If it is imminent that the charge-sheet is going to be filed, then I think, Sir, it would not be desirable for us to discuss. Even if we discuss, Sir, there is another problem arising out of it and that is to say we must sit in camera and discuss the matter if there is no such objection.

MR. SPEAKER.—Would the Hon'ble Member kindly enlighten me why should I take note of anything pending in court unless it comes within clause 7? It shall not deal with a matter which has the imminent chance of being taken up in a court; it says 'under adjudication' and the stage should be reached when it is going to be or under adjudication.

Sri ANNA RAO GANAMUKHI.—That is fairly clear. The mere filing of F. I. R. is not enough to say that it is under adjudication. That is clear. Unless the court has applied its mind it cannot be said that it is under adjudication.

Mr. SPEAKER.—The Charge-sheet need not be filed. Mere filing of F. I. R. in these circumstances—will it not mean a stage of pending enquiry?

Sri ANNA RAO GANAMUKHI.—Enquiry and investigations are different. The stage of Enquiry begins when the charge-sheet is immediately to be filed or it is actually filed. Investigation naturally takes time because the police cannot rush to the court without having sufficient proof before them. Therefore I think if it is imminent that the charge-sheet is going to be filed and the proof that is forthcoming is affected and it will affect the mind of the judiciary then we need not discuss it.

Mr. SPEAKER.—Could the Hon. Member kindly explain his theory of imminence? The words of sub-rule (vii) are clear.

Sri ANNA RAO GANAMUKHI.—It is not only the rules of procedure. When a person cites the case law it is needless to say that we should also follow. If the Government is in a position to know whether they are immediately going to file a charge-sheet in the court, they can say.

Mr. SPEAKER.—Before the member proceeds further, would he kindly quote any instance of conflict of the rulings of the Speaker either here or any House of Legislature with the rulings of the High Court?

Sri ANNA RAO GANAMUKHI.—Here, without going against the judicial interpretation of the matter we should say that this House has every privilege. We can speak, we can vote here freely and nobody can direct us that we should not do such and such a thing. But, at the same time we are guided by the rules and we have imposed some restrictions upon ourselves. If that is so, then I should say that if there is an imminent chance of a chargesheet being filed, we can decide to sit in camera and discuss. That will be limited to us. But here there is o e

important consideration and that is, there is a difference of procedure between the Lok Sabha rules and our rules. Here our press members are sitting. In the Lok Sabha they have enacted one legislation whereby if the press gives out verbatim and correct reports, they are protected. But here there is no protection.

Mr. SPEAKER.—Why have we not done it?

Sri ANNA RAO GANAMUKHI.—I do not know why we have not done it

Mr. SPEAKER.—Does not the member it is time that we began to have one like that?

Sri ANNA RAO GANAMUKHI.—I think I have drawn your attention to that fact by means of a letter. I do not exactly remember. Sometime back when I was discussing with you in your chamber I drew your attention to that fact. I feel we should have a provision like that. So, I think we can discuss this matter because there is no proximity between filing of F. I. R. and a charge-sheet.

Sri G. V. GOWDA.—Sir, you have been pleased to analyse this matter very well. The point on which we have to bank is “adjudication by the court”. The mere fact that an F.I.R. is filed before the Magistrate does not amount that the court is going to adjudicate.

Mr. SPEAKER.—Has Sri Gowda studied decided cases?

Sri G. V. GOWDA.—I have not studied cases so far as this point is concerned. Supposing a charge-sheet is filed the accused may appear. But the court is not adjudicating upon the matter. Adjudication means, the decision to be given on matter of dispute. There must be a dispute on which somebody is called upon to adjudicate.

Mr. SPEAKER.—In a criminal court?

Sri G. V. GOWDA.—That is why, I venture to submit whether this would cover the proceedings of criminal court. The wordings of the rule are: “any matter which is under adjudication by a court of law having jurisdiction”. It includes criminal cases also. The point is whether the offences charged against any particular individual are to be adjudicated by a criminal court.

Mr. SPEAKER.—Suppose 'x' commits an offence. The hon. member means to say that there is no adjudication and he need not be sentenced.

Sri G. V. GOWDA.—He will be sentenced. There is no point in dispute. Adjudication will arise if there is a dispute.

Mr. SPEAKER.—In a criminal court what is a dispute ?

Sri G. V. GOWDA.—Supposing there is a charge-sheet and if the accused pleads that he is not guilty, naturally there is a dispute.

Sri ANNA RAO GANAMUKHI.— I think he is hinting at one point, that is to say, if the case is withdrawn against the accused, there may be a possibility of not adjudicating the case.

†Sri G. V. GOWDA.—Adjudication would commence when the court takes up the matter for hearing. Unless the court finds that there is a point in issue, there will be no question of Adjudication. The mere fact that an F. I. R. is filed does not mean that we are debarred from discussing it. Even supposing a charge-sheet is filed it does not prevent us from asking clarification as to the nature of offence committed, number of persons accused therein. All these things do not go to prejudice the matter in issue. We are not commenting on the merits of the issues in question. Supposing we want to have information, i.e., the nature of offence committed, the name of accused, etc., those are matter of facts and a charge-sheet may have been filed and therefore there is nothing wrong in giving out that information.

Mr. SPEAKER.—If it is a question of eliciting information which will not influence, to that extent, I will allow. Two people died, how they died, why they died, and.....

†Sri G. V. GOWDA.—It has nothing to do with the merits of the case.

Mr. SPEAKER.—What is the nature of this motion ? It is to discuss the whole matter. If it is *sub judice*, how can you differentiate that they will not discuss this aspect or that aspect ?

Sri G. V. GOWDA.—Some steps should have been taken if it was to be called *sub judice*. The charge-sheet must have been filed. The court should have taken cognisance of the matter and the accused should be informed of the charge against him. It may prejudice at that stage. Then it may amount to *sub judice*.

Mr. SPEAKER.—According to Sri Gowda it is not the filing of the charge sheet only that would amount to *sub judice*. But that it is also essential the accused should be informed that the charge sheet is filed and he is being called upon to explain why he should not be charge-sheeted. According to him at that stage, it becomes *sub judice*.

Sri G. V. GOWDA.—Even then, as you have been pleased to say, it may not prevent us from discussing this matter. Here we are not supposed to have caused prejudice. For the merits of the case, we are not responsible. We are perfectly entitled to discuss the matter fully. Whether there would be repercussions, or not, we are not concerned with that. Even if the charge sheet is filed, unless the accused is appraised of the nature of offence and called upon to explain, I submit that the question of *sub-judice* would not arise. In this case, we are told that only the F.I.R. is filed. It may have been filed, but the accused may have no knowledge. Therefore, it is in the course of investigation. Unless it is completed and a *prima facie* case is made against the accused.....

Mr. SPEAKER.—Does the member feel that knowledge of the discussion here will affect the accused or is it of the judge whose mind is affected ? If it is the accused, it is not going to influence him, but if it is the presiding officer, i.e., the judge, the various remarks made here may influence him. The latter we have to prevent.

Sri G. V. GOWDA.—It may be taken advantage of by the accused. The mere fact that F.I.R. is filed does not bring this matter under *sub-judice*. Whatever we discuss will not influence the mind of the Judge unless the court is seized of it.

Sri K. LAKKAPPA.—In order to solidify my position and to support.....

Mr. SPEAKER.—He must enlighten me and not solidify his position.

Sri K. LAKKAPPA.—It is only to enlighten.....

Mr. SPEAKER.—Incidentally in doing so, he will do that.

†**Sri K. LAKKAPPA.**—Section 154 of the Criminal Procedure Code envisages that the F.I.R. is not an encyclopaedia. But it gives information with respect to an accusation against any person, but by itself, it is not a judicial proceeding which has been instituted in the Court and is not the adjudication of a case. Therefore, my submission is that mere filing of a F.I.R. does not give any jurisdiction to the Court to try a case. The F.I.R. may be given by the Police and it may be withdrawn at the time of trial if those things are not proved. A discussion on the adjournment motion before the House will not prejudice the interests of the Court and it is not a contempt of Court, for the House has got all privileges to discuss the important matter. It is not within the knowledge of either the Minister or the members of this House that a charge sheet has been filed and the Court has taken up the matter.

Mr. SPEAKER.—Does he concede that if a charge sheet is filed, it would be *sub judice*?

Sri K. LAKKAPPA.—After the Court takes cognisance of the matter, it is *sub-judice*.

Mr. SPEAKER.—After the First Information Report is filed, there is the imminence of the charge-sheet being filed. Then what is your contention?

Sri K. LAKKAPPA.—A charge sheet is going to be filed and the F.I.R.

Mr. SPEAKER.—Imminence.

Sri K. LAKKAPPA.—It is a supposition that they may have committed the offence and that it will be discussed in Court of Law; There is difference between F.I.R. stage and the charge-sheet being filed before the Court. My submission is that the House has got every privilege

to discuss the matter, which is very important and urgent, and it will not amount to contempt of court.

Sri D. PARAMESWARAPPA.—The main point before us is whether the filing of an F.I.R. in the Court amounts to *sub judice*, so as to prevent us from discussing an important matter before this House. Now, every judicial proceeding is of three stages, investigation, enquiry and trial. These three stages will have to be completed. Investigation and F.I.R. are only instruments which set a case in motion. Unless the case comes before the Court for consideration, we cannot say that the matter is under adjudication. We will have to make a distinction between the Judiciary and the Executive. Filing of an F.I.R. is an act of the Executive and not of the Judiciary. Unless the matter comes before the Court for consideration, it does not amount to adjudication of the matter. Hence it cannot be said that the matter is under adjudication and therefore *sub-judice*. In this respect, as the Hon'ble Speaker is aware, eminent lawyer he is, that a matter which is not under discussion before the Court cannot be treated as adjudication, because, it is a matter only before the Executive. We do not know whether the Police are going to investigate and file a charge-sheet ultimately before the Court for consideration. Therefore my submission is that unless it comes before the Court for consideration, it cannot be said to be under adjudication. And, as you are aware, Sir, an F.I.R. is not at all a substantial piece of evidence or any matter which can reflect upon the Court. Under these circumstances, unless and until the Court takes cognisance of the matter, it cannot be said that the matter, which has come before the House, is *sub-judice*, or it prevents us from discussing. Therefore the matter may be discussed, since it is a matter of public importance, urgent and important.

5-30 P.M.

Mr. SPEAKER.—Does the Hon'ble Member Sri Muckannappa wish to say anything?

Sri C. J. MUCKANNAPPA.—Sir, the whole thing rests with you.

† **Sri S. SIVAPPA.**—Sir, the whole thing centres round Rule 52 (vii). which says that the motion shall not deal with any matter which is under-adjudication by a Court of Law having jurisdiction in any part of India. Now, this is a matter of interpretation. More than interpretation, we have to take facts into consideration.

The fact is that there have been several deaths. According to the Minister's Report, the F. I. R. is filed. The point is whether filing of F. I. R. can be construed as adjudication by a court of law. I am emphatically certain that the filing of an F. I. R. does not mean that the matter is under adjudication. F. I. R. is only First Information Report and it cannot be construed by any stretch of imagination that the matter is under adjudication. The matter can be construed as under adjudication only after charge-sheet filed. We cannot imagine what is going to happen tomorrow. Tomorrow the concerned Minister may come forthwith the argument that the matter is under adjudication. That apprehension is there and in that way the privilege of this House cannot be taken away. The privilege of the House comes above everything else. In the light of the several instances you have quoted, it cannot be construed that the matter is under adjudication. So, there is no question of *sub judice* and this matter can be taken for discussion.

ಶ್ರೀ ಎ. ಎಂ. ದೇವ್.—ತಮ್ಮ ಹೇಳಿಕೆಯಲ್ಲಿ ಸಮಗ್ರವಾಗಿ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನೂ ಹೇಳಲಿಲ್ಲ. ಒಟ್ಟಿನಲ್ಲಿ ಈಗ ತಾವು ಮಾಡಿದ್ದೇನೆಂದರೆ, ಒಂದನೆಯ ದಾಗಿ ಮೊದಲು F. I. R. ರಿಪೋರ್ಟ್ ಬಂದು, ಅನಂತರ ಆ ರಿಪೋರ್ಟಿನ ಆಧಾರದ ಮೇಲೆ ನಡೆದದ್ದೂ ಕೂಡ ಎಷ್ಟೋ ಕೋರ್ಟಿಗೆ ಹೋಗಬೇಕಾದ ಸಂದರ್ಭವಿರುತ್ತದೆ ಎನ್ನುವದಕ್ಕೆ ವಿಚಾರದಲ್ಲಿ ರಾಲ್ಪ್ಸ್ ವಿಧಿಗಳು ಏನಿವೆ ಅವುಗಳನ್ನು ತಾವು ಹೇಳಿಲ್ಲ. ಆದರೆ ಆ ದೃಷ್ಟಿಯಿಂದ ಇಲ್ಲಿ ನೋಡುವುದಕ್ಕಾಗುವುದಿಲ್ಲ. ಇದಕ್ಕೆ ಮುಖ್ಯ ಕಾರಣ ಏನೆಂದರೆ ಈ ಕೇಸ್ ಪ್ರಿಜುದೀಸ್ ಆಗುತ್ತದೆ ಎಂಬುವೇ ಆಗಿದೆ. ಸಾಧು ವಲ್ಲ. ಏಕೆಂದರೆ F.I.R. ಆಧಾರದ ಮೇಲೆ ಎಷ್ಟೋ ಕೇಸ್‌ಗಳು ಕೋರ್ಟಿಗೆ ಹೋಗಕೂಡದೆಂದು ಸಾಧಿತವಾಗುತ್ತದೆ.

ಇನ್ನೊಂದು ವಿಷಯವೇನೆಂದರೆ ಇದು ಜಡ್ಡಿಯ ಮೈಂಡ್‌ಮೇಲೂ ಹೋಗುತ್ತದೆ. ಆದರೆ ಒಂದು ಜಡ್ಡ್ ಮೆಂಟ್ ಈ ವಿಚಾರಗಳನ್ನೆಲ್ಲಾ ಅವಲಂಬಿಸಿರುತ್ತದೆ.

Mr. SPEAKER.—So, according to the Hon'ble member there is nothing like *sub judice*.

† **Sri V. M. DEO.**—It is only when the charge-sheet is produced in the court and the proceedings start that discussion should not be allowed in this House. Till such time as it actually comes before the court, I think the House is competent; not only that but it is also desirable that it should be discussed here. Of course, many Hon'ble Members have literally split hairs on this point. After all, these things are made by men and I feel that till such time as the charge-sheet is actually filed, the House is competent to discuss this matter.

Another point is we bring up such matters so that Government, will take them up seriously. I think the Hon'ble the Law Minister said that it might be taken up. If he says so, that will settle the issue.

ಶ್ರೀ ಎಸ್. ಭೀಮಣ್ಣ.—ಕೋರ್ಟ್ ಕಾಗೆ ಪ್ರಿಜೆನ್ಸ್ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಮುಂಚೆ ಅಡ್ಜುಡಿಕೇಷನ್ನಿನ ಪ್ರಶ್ನೆ ಬರುವುದಿಲ್ಲ. ಕ್ರಿಮಿನಲ್ ಕೇಸಿನಲ್ಲಿ ಮೂರು ಸ್ಟೇಜ್ ಇದೆ. ಇನ್ವೆಸ್ಟಿಗೇಷನ್, ಜೈಯರ್, ಎಕ್ಸೆಕ್ಯೂಷನ್ ಎಂದು. ಎಫ್.ಐ.ಆರ್. ಅನ್ನು ಕಳುಹಿಸಿದ ಮಾತ್ರಕ್ಕೆ ಕೋರ್ಟ್ ಆ ಪ್ರಕರಣವನ್ನು ತೀರ್ಮಾನಕ್ಕೆ ತೆಗೆದುಕೊಂಡಂತಾಗುವುದಿಲ್ಲ. ಛಾರ್ಜ್‌ಶೀಟ್ ಹಾಕಿದರೂ ಅಡ್ಜುಡಿಕೇಷನ್ ಬರುವುದಿಲ್ಲ. ಛಾರ್ಜ್‌ಶೀಟ್ ಸಬ್‌ಮಿಟ್ ಆದನಂತರ ಫಸ್ಟ್ ಹಿಯರಿಂಗ್, ಎಕ್ಸೆಕ್ಯೂಷನ್ ಸ್ಟೇಜ್ ಆಗಲೇ ಕಾಗೆ ಪ್ರಿಜೆನ್ಸ್ ತೆಗೆದುಕೊಂಡಿದೆ ಎಂಬ ಆರ್ಥ ಬರುತ್ತದೆ. ಈಗ ಮೂರು ಸ್ಟೇಜುಗಳಲ್ಲಿ ಮೊದಲನೇ ಸ್ಟೇಜ್ ಇನ್ನೂ ಕಂಪ್ಲೀಟ್ ಆಗಿಲ್ಲ. ಛಾರ್ಜ್‌ಶೀಟ್ ಹಾಕಿದ ನಂತರ ಫಸ್ಟ್ ಹಿಯರಿಂಗ್. ಆ ಮೇಲೆ ಎಕ್ಸೆಕ್ಯೂಷನ್ ಪ್ರಾರಂಭವಾಗುತ್ತದೆ. ಎಕ್ಸೆಕ್ಯೂಷನ್ ಅನಂತರ ಈ ಕಾಗೆ ಪ್ರಿಜೆನ್ಸ್ ಪ್ರಶ್ನೆ ಬರುತ್ತದೆ. ಈ ಸ್ಟೇಜಿಗೆ ಮುಂಚೆ ಅಡ್ಜುಡಿಕೇಷನ್ ಬರುವುದಿಲ್ಲ. ಇನ್ವೆಸ್ಟಿಗೇಷನ್ ಮುಗಿದು ಛಾರ್ಜ್‌ಶೀಟ್ ಸಬ್‌ಮಿಟ್ ಆಗುವ ಮೊದಲು ಎಕ್ಸೆಕ್ಯೂಷನ್ ಪ್ರಾರಂಭವಾಗುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ವಿಷಯ ಇವೊತ್ತು ದಿನಾಂಕ ಆಗುವುದಕ್ಕೆ ಅಡ್ಡಿ ಏನು ಎನಿಸುತ್ತದೆ.

Mr. SPEAKER.—I want to be educated to make up my mind.

Sri G. V. GOWDA.—If you give one day's time, we will search for authorities and give them. There are so many case laws on this point.

Sri S. SIVAPPA.—Sir, I want to know from you whether today at 2 o'clock this matter was under adjudication in any court of law. At 2 o'clock

(SRI S. SIVAPPA)

clock this motion was moved and this House was seized of this matter. If this matter was under adjudication in any court of law in the State, then it becomes *sub judice*. We are not concerned with tomorrow.

Sri B. P. KADAM (Karwar).—Sir, it will not be necessary to go into the question whether the matter is *sub judice* or not because we have no definite information that the charge-sheet is sent. Secondly, even if the matter is taken to be *sub judice*, there is a humanitarian aspect to the whole question. The technicalities of law will not be discussed here as they might prejudice the mind of the court. We do not know the nature of the guilt or who the guilty is. We are not interested in that aspect of the matter; we are interested in the humanitarian aspect of the matter because so many deaths have taken place by taking poisoned illicit liquor:

Secondly, we are anxious to see that the families of those people are given some aid as is necessary. Sir, in short, the legal aspect will not be considered.

Mr. SPEAKER.—Have you a copy of the Motion in your hand? I will read:

“This House be adjourned to discuss the recent incident regarding the death of 62 persons between 15th and 18th instant in the K.G.F. area on account of consumption of poison in illicit liquor.”

How am I to anticipate the limits? I must take it that when it is admitted it must be open to anybody to say whatever he thinks and he may deal with it.

Sri B. P. KADAM.—If that aspect comes, Mr. Speaker, you will be good enough to restrict the debate.

Mr. SPEAKER.—That is also an aspect which I will consider.

Sri K. S. SURYANARAYANA RAO (Mysore city).—The word used is adjudication. As other Members of

the House have already said, you have stated much and you know it is best expressed. My point on this is, in any criminal proceedings, first the F.I.R. is filed. It is to enable the Judge to make out if there is any case for further investigation, and then the Court will pass an order.

Sri G. V. GOWDA.—That is not true so far as cognizable offences are concerned. The Court will not see the F. I. R.

Mr. SPEAKER.—I will take note of both the views.

Sri K. S. SURYANARAYANA RAO.—Viewed from that point of view the F.I.R. is filed in a Court. Therefore, Sir, it can be said that adjudication starts right from the point of filing of the F.I.R., because immediately the F.I.R. is filed, the Judge is seized of the matter. That incident has taken place in a particular way in a particular place and so many people are involved and the Court wants to satisfy itself whether there is any *prima face* case and therefore to satisfy itself it will order investigation and to file a report. The police will then file either a charge-sheet or ‘B’ report that there is no substance in the first information report filed in the Court, and therefore, viewed from that point of view, filing of F.I.R. could amount to starting of the proceedings.

Mr. SPEAKER.—Suppose the person whose name is mentioned in the F.I.R., is not charged and later investigation shows that some other person against whom the charge-sheet is filed?

Sri K. S. SURYANARAYANA RAO.—That is exactly my point. Supposing in the F.I.R. it is stated that ‘A’ has committed an offence and investigation discloses that it is not ‘A’, but it is ‘B’; then the proceedings under F.I.R., although intermediate proceedings till a complaint is filed, will be proceedings of the Court; therefore if the complaint against whom it is made is not proved, it amounts to a decision by the Court that ‘A’ did not commit mistake. On the basis of the further information filed by the investigating officer if ‘A’ has not committed an offence, all the proceedings started against ‘A’ are the proceedings before

the Court is an adjudication and an opinion expressed by the Judge.

Mr. SPEAKER.—According to him the concept of sub judice does not depend on the identity of the person ultimately charged, but by the commission of the offence regardless of the person who might have committed it.

Sri A. P. APPANNA.—Sir, when the F.I.R. is filed in the Court, the matter does not end there, because if the Police does not, file charge-sheet or 'B' sheet the court has got the right to call for the final report by the Police. But, suppose the Police does not file any 'A' sheet or 'B' sheet, then the Court has got power to call for the Police to file either 'A' or 'B' sheet. That shows that the Court is seized of the matter when the F.I.R. is filed before the Court. We are speaking on the presumption that only F.I.R. is filed, that it lies there and that the Judge does not look into it. If the Court has got power to call for the final report on the basis of F.I.R. filed in the Court, I feel Sir, that the Court is seized of the matter. When the F.I.R. is filed it has got the authority to call for the final report from the Police after the F.I.R. is filed. The word used in this context is 'pending adjudication'. That means the Court must apply its mind and come to a decision.

Mr. SPEAKER.—Decision Comes at a later stage. Pending enquiry cannot be equated to decision stage.

Sri A. P. APPANNA.—Adjudication means the Court must apply its mind. As soon as the F.I.R. is filed, I feel, the Court applies its mind because it calls for the report from the Police, whether it is charge-sheet or 'B' sheet. When the F.I.R. is filed pending adjudication before the Court, the Court is seized of the matter.

Mr. SPEAKER.—Obligatory on the Magistrate? Is he bound to call for?

Sri A. P. APPANNA.—Sir, I also draw the attention of the Chair that when the case is investigated and certain statements are taken from the witnesses, those statements are looked into by the Judge when going into evidence and the Judge has got power to discharge the accused. When going into the evidence that is produced in

the Court, i.e., the stage after filing the charge-sheet that the Court can go into the statements recorded by the Police and if a *prima face* case is not made out on the basis of the statement made by the Police, the Court has got power to discharge the accused.

Mr. SPEAKER.—So the court should apply its mind. Mere physical filing of a charge-sheet does it mean that mind is applied? Factum of applying mind and trying to apply mind—are they not different?

Sri A. P. APPANNA.—If the Court has power to call for the report of the Police, then it must apply its mind. Whether it has actually applied its mind or not is not the question.

Mr. SPEAKER.—I catch the point.

Sri R. M. PATIL.—The issue is covering three points in this way. Whether it is of public importance is point number one.

Sri R. M. PATIL (Minister for Home).—Second point is whether the question of adjudication by court arises there. The third point is whether it amounts to contempt of court and then by whether amounts to *sub judice*. Why I urge the third point is, they are taken in parallel. Practically the same points are also taken into consideration. Contempt of court as well as *sub judice*. If we take the point whether it is of public importance, in the first place, I emphasise that this is not a matter of public importance.

Mr. SPEAKER.—Would the Hon'ble Minister kindly tell me why was a statement made?

Sri R. M. PATIL.—I am coming to that. I am arguing both ways, public importance is No. 1, concerning the public. This is a matter which is surreptitiously done by individuals. That means taking a dose of alcohol containing poison and dying or about to die; that is the position. Whether this is a matter of public importance is the point. It is one's own individual misdeed against oneself. If we take this to a further end then comes, what is the cause of this? The cause of this is on securing a dose of alcohol

(SRI R. M. PATIL)

containing poison in a particular place and that particular place was not traced by the Police or by the searching authority and therefore it has assumed importance. This is too far-fetched. That is why I say that this is not a matter of public importance. Public importance is there when we consider the number of deaths. According to the report mentioned in the Newspapers, it is 62; but as a matter of fact, the suspected deaths are only 18 and the reported deaths which are examined are about 7 or so. Under such circumstances if we take each case individually, as an individual fault or individual mistake or individual wrong committed against oneself, then it will not be of public importance. If it construed from the point of public vigilance or the vigilance of the public officer or the want of vigilance of a public officer that these deaths are caused, it may assume the role of public importance. But my humble suggestion to the House is that it is not a matter of public importance. If we take each instance in its own individual way. Secondly whether this matter will come within the purview of the rule which bars consideration. My view is when a matter is taken cognizance of by the court, that matter is *sub judice*. There are three ways of taking cognizance of the case by the court. One is on a complaint and another is on a charge sheet and the third one is otherwise, by any means. Under Section 19 of the Criminal Procedure Code, the court can take cognizance of a case in three ways. As reported and stated by my Hon'ble friend, the court has taken cognizance of the case. What is meant by taking the cognizance of the case? The Police have filed the first information Report.

Sri G. V. GOWDA.—Does the sending of F. I. R. to the Magistrate amount to a complaint? It is not a complaint.

Sri R. M. PATIL.—Taking cognizance means being seized of the case. Being seized of the case means making a court apprised of it. That appraisal may take place in three ways; not necessarily by way of a charge-sheet;

even a complaint by a private individual is enough; even the court itself takes cognizance of it on its own information. So, in this case what has happened is the first information report is submitted to the court. Secondly the accused is arrested.

Sri G. V. GOWDA.—F.I.R. is not a complaint.

Sri R. M. PATIL.—If it is not a complaint in the regular sense of an application by a complainant, then it can also be said that court has taken cognizance of it otherwise.

Mr. SPEAKER.—The word 'complaint' is not found in this rule. We need not develop much about it.

Sri R. M. PATIL.—The court being seized of the matter either by a complaint or by a charge-sheet or otherwise; 'otherwise' is sufficiently wide enough to cover not only information derived by certain particular individual but even by the Magistrate himself; whether that source of information is known to others or not is a different matter. Here in this case, what has happened is that the court is already seized of the matter and that the accused are arrested; Proceedings are there and investigation is going on. So, under such circumstances, the case is pending before the court. During the period between the first information report and the submission of a charge-sheet, there are so many things to be done. The Magistrate can call upon the Police for information, further information for diary and all that. At the same time, he may refuse application for bail or he may release the accused on bail. Therefore, what I submit is that this is a matter pending before the court even though the investigation is there. Therefore the whole of the proceedings is pending before the court even though as a matter of fact investigation is going on and investigation is not yet completed.

Mr. SPEAKER.—Pending enquiry—enquiry stage is reached as soon as the information report is given. Enquiry stage is to begin with; not a completed stage.

Sri R. M. PATIL.—Of course, the point is immediately after taking cognizance of the case.

Mr. SPEAKER.—Initial step has been taken.

Sri R. M. PATIL.—Initial step has been taken.

Sri G. V. GOWDA.—By whom initial step has been taken? It is by the Police.

Mr. SPEAKER.—Whose enquiry will begin? Would the Hon'ble Member enlighten me on this point, one minute before the F. I. R. is filed and one minute after the F. I. R. is filed, do you say that the position is the same?

Sri G. V. GOWDA.—F. I. R. is not filed before the Magistrate.

Mr. SPEAKER.—I am not concerned with the Criminal Procedure Code, but with regard to the interpretation of this rule; 'pending enquiry means not closed; pending enquiry means enquiry has been initiated but...

Sri G. V. GOWDA.—Who has initiated?

Mr. SPEAKER.—As to whether it should be initiated by X or Y or Z, the rule is silent.

6.00 P.M.

Sri G. V. GOWDA.—Supposing there is a commission of offence. The first information report is given to the police. As a precaution a copy of the report is sent to the Magistrate. But there is no duty cast on him to hand over the copy to the Magistrate. As a matter of safety he does it. For the purpose of safeguarding the interests of the accused, that procedure is followed. The Magistrate does not take cognisance of it unless a charge-sheet is filed. Section 154 of the Cr. P. C. contemplates that.

Mr. SPEAKER.—The Hon. Member wanted to cite some authorities and convince me. I think two Ministers

will require a little time to deal with this matter.

Sri R. M. PATIL.—I may require just five minutes to complete my remarks.

Mr. SPEAKER.—May I know whether the Minister for Law also would like to enlighten the House on this issue?

Sri M. V. RAMA RAO.—If the Hon'ble Home Minister's expositions of the position leaves anything to be said, I will say.

Mr. SPEAKER.—I shall be grateful. The idea that we can have the benefit of the Advocate General's views is also there. He is also a member of this House.

HON'BLE MEMBERS.—Yes.

Sri S. SIVAPPA.—It is a vital matter. It is better we call him.

Mr. SPEAKER.—It may or may not be so. If I have any doubts, after hearing all of you I shall decide the matter.

Sri C. J. MUCKANNAPPA.—Sir, once he was summoned when there was some confusion. The House wanted him to enlighten it on some points.

Mr. SPEAKER.—Tomorrow is Saturday. The House will now rise and meet tomorrow at 8-30 A.M.

The House adjourned at Five Minutes past Six of the Clock to meet again at Thirty Minutes past Eight of the Clock on Saturday, the 22nd September 1962.
